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ROCHESTER, MN 55901-7829

EXAMINER

LY, CHEYNE D

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

**MAILED**

Application Number: 10/664,537  
Filing Date: September 19, 2003  
Appellant(s): DETTINGER ET AL.

SEP 28 2007

**Technology Center 2100**

Gero G. McClellan (Reg. No. 44,227)  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed June 15, 2007 appealing from the Office action mailed April 02, 2007.

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**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5924074	Evans	07-1999
20030120527	Palomo et al.	06-2003
5974389	Clark et al.	10-1999

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

**CLAIM REJECTIONS - 35 USC § 103**

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. **Claims 1-4 and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (US 5,924,074A) taken with Palomo et al. (US 2003/0120527A1) (Palomo hereafter).**

**MOTIVATION TO COMBINE**

4. Evans describes an improve an improvement via the EMR system which finishes healthcare providers with an intuitive, easy-to-use,...interface that enables them to capture and analyze patient data quickly and efficiently (column 2, lines 28-31). While, Palomo

describes improving the Evans patent (page 1, [0012], and page 2, [0020] for improving the efficiency of a business (page 3, [0039]). Therefore, one of ordinary skill in the art at the time of the invention would have been motivated by Palomo to improve the patent of Evans improving the efficiency of a business.

#### **PRIOR ART**

5. In regard to claims 1, Evans describes a method of exchanging information via annotation, comprising:

Providing an interface allowing a first user to view query results including one or more data objects the first user is authorized to view; select a data object from the query results, and create an annotation with a scope encompassing a selected data object (column 7, lines 5-39);

Providing an interface element allowing the first user to expand the scope of the annotation to encompass one or more data objects (column 8, lines 19-60, especially, “the patients data structure 210 includes pointers to data structures having data within a patient record captured by the point of care system 100 and incorporated from external sources” (expand the scope...)).

6. However, Evans does not describe the limitation of “the first user is not authorized to view.”

7. Palomo describes “a medical service provider (e.g. doctor) would have full access to a patient’s medical file...a medical technologist may have access to the portion of the patient’s file that relates to medical testing but not necessarily to the past general medical history (column 7, lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the

art improve the patent of Evans, as describe by Palomo, to have the first user as not being authorized to view the one or more objects as defined by each access level. The motivation would be to improve the patent of Evens improving the efficiency of a business by enabling patient data capture and analysis quickly and efficiently.

8. In regard to claim 2, Evans in view of Palomo describes an interface element allowing the first user to expand the scope of the annotation comprises providing an interface element allowing the user to associate the annotation with a primary key for a row of data containing the selected data object (column 8, lines 19-28, especially, "PID"). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, as describe by Palomo; to improve the patent of Evens improving the efficiency of a business by enabling patient data capture and analysis quickly and efficiently.

9. In regard to claim 3, Evans in view of Palomo describes the claimed invention as cited above. Further, Evans describes the limitation of "select one or more rows..." and "create annotation for selected one or more row..." (Figure 5, especially, "Progress Notes" Table). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, as describe by Palomo, to improve the patent of Evens improving the efficiency of a business by enabling patient data capture and analysis quickly and efficiently.

10. In regard to claim 4, Evans in view of Palomo describes the claimed invention as cited above. Further, Evans describes the limitation of "storing the annotation with a reference to the model entity" (column 8, lines 29-60, and Figure 13 which models the data stored the cited database). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, as describe by Palomo, to improve the patent of Evens

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improving the efficiency of a business by enabling patient data capture and analysis quickly and efficiently.

11. In regard to claims 20-24, Evans in view of Palomo describes the claimed invention as cited above. Further, Evans describes “an instance value” (Figure 7, especially, TEST values). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, as describe by Palomo, to improve the patent of Evens improving the efficiency of a business by enabling patient data capture and analysis quickly and efficiently.

**12. Claims 5 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (US 5,924,074A) taken with Palomo et al. (US 2003/0120527A1) (Palomo hereafter) as applied to claims 1-4 and 20-24 above, and further in view of Clark et al. (US 5974389A).**

#### **MOTIVATION TO COMBINE**

13. Evans describes an improve an improvement via the EMR system which finishes healthcare providers with an intuitive, easy-to-use,...interface that enables them to capture and analyze patient data quickly and efficiently (column 2, lines 28-31). While, Palomo describes improving the Evans patent (page 1, [0012], and page 2, [0020]) and Clark patent (page 1, [0012], and page 2, [0019]) for improving the efficiency of a business (page 3, [0039]). Therefore, one of ordinary skill in the art at the time of the invention would have been motivated by Palomo to improve the patent of Evens and Clark for improving the efficiency of a business.

## **PRIOR ART**

14. In regard to claims 5, 25, and 27, Evans and Palomo describe the claimed invention as cited above. However, Evans and Palomo do not describe “displaying, to the second user, an indication of the annotation.” Clark describes “displaying, to the second user, an indication of the annotation” (column 9, lines 32-45, especially, “When a second caregiver takes over a writable copy from another caregiver, system 100 displays a message asking the second caregiver...” Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans and Clark with the displaying to the second user (a second caregiver) of Clark for improving the efficiency of a business.

15. In regard to claim 26, Evans, Palomo, in view of Clark describes the invention as cite above. Further, Palomo describes “a medical service provider (e.g. doctor) would have full access to a patient’s medical file...a receptionist...may only have access to certain narrow segments of the same file for scheduling purposes....a medical technologist may have access to the portion of the patient’s file that relates to medical testing but not necessarily to the past general medical history (column 7, lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, Paloma, and Clark with the additional disclosure of Palomo for improving the efficiency of a business by providing the second query results that do not contain the selected data object described by the annotation such as the query by the receptionist.

16. In regard to claim 28, Evans, Palomo, in view of Clark describes the invention as cite above. Further, Palomo describes “a medical service provider (e.g. doctor) would have full access to a patient’s medical file...a receptionist...may only have access to certain narrow



segments of the same file for scheduling purposes....a medical technologist may have access to the portion of the patient's file that relates to medical testing but not necessarily to the past general medical history (column 7, lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, Paloma, and Clark with the additional disclosure of Palomo for improving the efficiency of a business by providing the second query results that do not contain the selected data object described by the annotation such as the query by the medical technologist.

#### **(10) Response to Argument**

On pages 9-11, Appellant provides arguments asserting "the cited passage does not teach providing an interface element allowing the first user to expand the scope of the annotation to encompass one or more data objects." Applicant's arguments are not persuasive because the cited portion of column 7, lines 5-39, and column 8, lines 19-60 reasonably describes the argued limitations. For example, Evans discloses by "*annotating patient data, a healthcare provider, such as a physician, can acknowledge reviewing patient data, provide instructions, such as directions for additional tests and procedures or prescriptions for medication to administer to the patient, and approve recommendations for treatment by other healthcare providers*" (column 7, lines 22-28). For example, Figure 5 below discloses progress notes (annotation) wherein the annotation is expanded to encompass one or more data objects such as History & Physical Examination on 9/26/91, and Discharge Summary—Addendum (expanding). The adding of annotation corresponding to the respective dates in the Progress Notes reasonably describes the argued limitation of "expand the scope of the annotation to encompass one or more data objects."

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☒ Progress Notes
 ☐ Laboratory
 ☐ Clinical Data
 ☐ Encounter

Progress Notes			
	Date	Description	Reviewed
▶	6/9/95	Progress Note	
	2/14/94	Progress Note	X
	10/23/92	Endoscopy Report	X
	10/7/91	Discharge Summary-Addendum	X
	9/26/91	History & Physical Examination	X
	8/31/90	History & Physical Examination Cont.	X

Another example, is “the viewer window 185 of FIG. 8 displays an x-ray 186. As before, the healthcare provider may annotate the x-ray 186 with comments and observations by clicking on the annotate button 187” (column 7, lines 34-38). Figure 8, as provided below, illustrates the expanding the scope of the annotation to encompass one or more data objects.

	Date	Description
	8/12/96	Order Complete
	2/14/94	Routine KUB-Rec
▶	2/14/94	Routine KUB-X-
	2/14/94	Radiology Report
	2/12/93	Lateral Cervical-
✓	2/12/93	Lateral Cervical-
<input type="checkbox"/> <input type="checkbox"/>		

The left is the annotation wherein the annotation is expanded to encompass one or more data objects corresponding to the respective dates such as “Lateral Cervical” on 2/12/93, “Radiology Report” on 2/12/93. The adding of description (annotation) corresponding to the respective dates reasonably describes the argued limitation of “expand the scope of the annotation to encompass one or more data objects.”

In paragraphs [0067] to [0068] of the instant published application (US 2005/0065958A1), Appellant provides an exemplary disclosure for the argued limitation of

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“expand the scope of the annotation to encompass one or more data objects” wherein by associating an annotation with a primary key (e.g. the patient Id) cell of a table containing data described by an annotation may allow the scope of annotations to be effectively expanded. As previously cited, Evans describes upon creation of a patient record, the patient locator 200 creates a patient data structure 210 having the PID (Patient ID) having pointers the above described progress notes structure. Therefore, the disclosure of associating the progress notes structure with the patient ID in a patient record reasonably describes the argued limitation of “expand the scope of the annotation to encompass one or more data objects” as exemplified by Applicant in the instant specification.

Therefore, Evans describes the argued limitation as recited in claims 1 and 20.

On page 11, Appellant argues claims 2-4 and 21-24 depend from claim 1 or 20 respectively, and are therefore believe to be allowable for the reasons provided above. Appellant’s argument is not persuasive because Evans describes argued limitation as recited in claims 1 and 20, as discussed above.

On pages 11-12, Appellant argues Clark does not disclose “displaying, to the second user, an indication of the annotation.” Appellant’s argument is not persuasive because Clark describes “displaying, to the second user, an indication of the annotation” (column 9, lines 32-45, especially, “When a second caregiver takes over a writable copy from another caregiver, system 100 displays a message asking the second caregiver...” Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evens and Palomo with the displaying to the second user (a second caregiver) of Clark for improving the efficiency of a business.

On page 12, Appellant argues “the Examiner issued a categorical rejection of claim 26...Accordingly, the rejection is defective.” Appellant’s argument is not persuasive because the Examiner has provided a prima facie case of obviousness as directed to claim 26 in the Final Office Action, mailed January 19, 2007. In regard to claim 26, Evans, Palomo, in view of Clark describes the invention as cite above. Further, Palomo describes “a medical service provider (e.g. doctor) would have full access to a patient’s medical file...a receptionist...may only have access to certain narrow segments of the same file for scheduling purposes....a medical technologist may have access to the portion of the patient’s file that relates to medical testing but not necessarily to the past general medical history (column 7, lines 1-12). Therefore, it would have been obvious to one of ordinary skill in the art to improve the patent of Evans, Paloma, and Clark with the additional disclosure of Palomo for improving the efficiency of a business by providing the second query results that do not contain the selected data object described by the annotation such as the query by the receptionist.

Further, Appellant argues “absent a separate basis for rejecting claim 26 over the art, the rejection is defective.” Appellant’s argument is not persuasive because Evans describes an improve an improvement via the EMR system which finishes healthcare providers with an intuitive, easy-to-use,...interface that enables them to capture and analyze patient data quickly and efficiently (column 2, lines 28-31). While, Palomo describes improving the Evans patent (page 1, [0012], and page 2, [0020]) and Clark patent (page 1, [0012], and page 2, [0019]) for improving the efficiency of a business (page 3, [0039]). Therefore, one of ordinary skill in the art at the time of the invention would have been motivated by Palomo to improve the patent of Evens and Clark for improving the efficiency of a business. Therefore, Palomo and Evans in

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further view of Clark as a whole renders claim 26 obvious; therefore, a separate basis for rejecting claim 26 over the art is not required.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Cheyne D. Ly/

Conferees:

Tim Vo, SPE AU 2168

Eddie Lee, Appeal Specialist



TIM VO

SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100



EDDIE C. LEE  
SUPERVISORY PATENT EXAMINER